

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
SureWest Communications)	
)	CC Docket No. 94-129
Petition for Waiver of Section 64.1120(e))	
Of the Commission's Rules)	

To: Chief, Consumer and Governmental Affairs Bureau

PETITION FOR WAIVER - EXPEDITED ACTION REQUESTED

Pursuant to Sections 1.3 and 1.925 of the Commission's Rules, SureWest Communications ("SureWest") hereby respectfully requests that the Commission immediately grant a waiver of Section 64.1120(e) of the Rules in order to allow one of SureWest's subsidiaries to begin providing local and long distance service to the customers of a competitive local exchange carrier whose assets are about to be acquired by SureWest's subsidiary in a bankruptcy proceeding.

I. BACKGROUND.

SureWest is an established provider of high quality local exchange, interexchange, wireless and broadband services. Its subsidiary Roseville Telephone Company has been providing local exchange services for over 87 years.

Western Integrated Networks, LLC, dba WINfirst ("WINfirst"), provides facilities-based local exchange service to customers located in and around Sacramento, California. WINfirst also provides long distance service to its customers by reselling

the long distance service of facilities-based interexchange carriers. WINfirst has filed for Chapter 11 bankruptcy, and on July 10, 2002, a Bankruptcy Court judge directed the WINfirst trustee to transfer the WINfirst assets to SureWest.¹ Under the Court's order, SureWest has agreed to close on the transfer of WINfirst's assets and the transfer of Sacramento customers to SureWest service by July 12, 2002. The reason for this rapid closing is that WIN does not have funds to operate its facilities. Both local exchange and interexchange service will be provided by SureWest TeleVideo, a wholly-owned subsidiary of SureWest.

Under Section 64.1120(e) of the Commission's Rules, 47 CFR §64.1120(e), "[a] telecommunications carrier may acquire, through a sale or transfer, either part or all of another telecommunications carrier's subscriber base without obtaining each subscriber's authorization and verification . . . provided that the acquiring carrier complies with . . . [certain] procedures." Specifically, the acquiring carriers must file a letter with the Commission "[n]o later than 30 days before the planned transfer" in which such carrier is to set forth "the names of the parties to the transaction, the types of telecommunications services to be provided to the affected subscribers, and the date of the transfer of the subscriber base to the acquiring carrier." In addition, "[n]o later than 30 days before the transfer of the affected subscribers . . . the acquiring carrier shall provide written notice to each affected subscriber" informing them of the transfer and providing such basic information as (1) the date of the transfer; (2) the rates, terms and conditions of the service the subscriber will receive from the acquiring carrier; (3)

¹ In re: Western Integrated Networks, LLC, et al., United States Bankruptcy Court for the District of Colorado, Case No. 02-13043 EEB.

the fact that the customer will not be charged for the transfer to the acquiring carrier; (4) the fact that the subscriber has the right to select another preferred carrier or carriers; (5) the fact that any PIC freezes the customer had in place will not survive the transfer and that the subscriber would have to arrange for the imposition of a new PIC freeze with the subscriber's local carrier; and (6) whether the acquiring carrier or the transferring carrier would handle complaints raised prior to the transfer. The acquiring carrier also had to provide a toll-free number for affected customers to call if they had questions about the transfer.

Given the action of the Bankruptcy Court granting the order to transfer the WINfirst assets, and given that the transfer occurs on July 12th as anticipated, SureWest will be unable to comply with the 30-day advance notification requirement of Section 64.1120(e) and still meet the goal of minimizing disruptions in the local and long distance service of customers. SureWest therefore requests a waiver of this rule to enable it to effect a seamless transition of WIN's customer base to SureWest. Within ten (10) business days from the closing of the transaction, SureWest will send each affected customer a letter setting forth the information required by Section 64.1120(e).

II. GRANT OF THE INSTANT WAIVER PETITION ON AN EXPEDITED BASIS IS IN THE PUBLIC INTEREST.

Section 1.925(b)(3)(ii) of the Rules specifies that the Commission may grant a request for waiver if it is shown that "[i]n view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no

reasonable alternative.” Such circumstances clearly apply here. The rapid closing deadline anticipated in the Bankruptcy Court’s Order is designed to ensure that WINfirst’s customers are transferred to SureWest in a way that minimizes possible service disruptions to those customers. SureWest cannot comply with this deadline while also complying with the 30-day advance notification requirement of Section 64.1120(e). Compliance with Section 64.1120(e) would significantly risk leaving WINfirst’s customers without local or long distance service during that 30-day period. Affected customers will not be harmed by grant of the requested waiver, as SureWest will offer them services and rates that are identical to those that customers were receiving from WINfirst. In addition, the affected customers will be advised shortly about the transfer and the terms of service, and about their rights to switch to a different local exchange or long distance carrier if they so choose. Furthermore, customers will be given a toll-free number to call to obtain answers to any questions they may have.

Lastly, it should be noted that WINfirst provides service to residential customers. Grant of this waiver will thus help preserve one of the rare instances of the provision of facilities-based competitive local exchange residential service (as opposed to service to business customers).

Given the need for expedited action, the unique and unusual factual circumstances associated with this matter, and the lack of reasonable alternatives,

SureWest requests that the Commission grant the instant petition for waiver on an expedited basis.

Respectfully submitted,

SUREWEST COMMUNICATIONS

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July 10, 2002

CERTIFICATE OF SERVICE

I, Joan P. George, a secretary in the law firm of Fletcher, Heald & Hildreth, do hereby certify that a true copy of the *Petition for Waiver-Expedited Action Requested* was sent this 10th day of July, 2002, by e-mail where indicated, and sent on July 11, 2002 by hand to the following:

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/s/Joan P. George
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* Via hand and e-mail

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